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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/672,393

09/28/2000

Klaus-Peter Maass

60,130-899

8273

26096 7590 12/28/2006
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EXAMINER

REDMAN, JERRY E

ART UNIT

PAPER NUMBER

3634

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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12/28/2006

PAPER

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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/672,393
Filing Date: September 28, 2000
Appellant(s): MAASS ET AL.

Ms. Karin Butchko
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/20/2006 appealing from the Office action mailed 7/27/2005 (final rejection).

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal: Board decision on 9/23/2004 remanded back to the Examiner. A copy is herein attached as an appendix.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,076,882	Szerdahelyi et al.	6-2000
6,233,875	Carlo et al.	5-2001

(9) Grounds of Rejection

Claims 10, 11, 23, and 25-28 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Szerdahelyi et al.

Claims 14-21, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szerdahelyi et al. in view of Carlo et al.

(10) Response to Argument

Szerdahelyi et al. disclose a motor vehicle door comprising: an interior sheet metal (1b and 3), an exterior sheeting (1a), a hollow interior space formed between (best seen in figure 1f) between the exterior sheeting (1a) and the interior sheet metal (1b), an opening (3a or 3b) in the interior sheet metal (1b and 3), a carrier module (5 and/or 6) that closes the opening (3a and/or 3b) and carries at least one function part (a handle and lock assembly) of said motor vehicle door, the carrier module (5 and/or 6) including a base plate (50 and/or 60) which closes the opening (3a and/or 3b) of the interior sheet metal (1b and 3) from a side of the hollow interior space of the vehicle

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door, and an access opening (10) sized large enough to allow entry of the carrier module (5 and/or 6) into the interior space of the door. Szerdahelyi et al. further disclose the exterior sheeting (1a) further including a carrier frame (the edge portions of the door as well as the upper guide/carrier portion for the window pane). Szerdahelyi et al. further disclose the interior space of the door is provided in the interior sheet metal (1b and 3) is closed by a closing plate (1'b, column 5, lines 22-23, i.e., the trim panel having openings for module (5 and/or 6).

With respect to claims 14-21, and 29, all of the elements of the instant invention are discussed in detail above except providing the carrier module with two guide rails for a cable assembly and a brace. Carlo et al. disclose a carrier module having two guide rails (7) in a cable assembly and a brace. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the module of Szerdahelyi et al. with two guide rails in a cable assembly and a brace as taught by Carlo et al. since multiple link drives and cable drives are art equivalent and both perform equally as well to drive a window closure. It would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the module of Szerdahelyi et al. with a brace as taught by Carlo et al. since a brace provides rigidity to the module.

It appears that the appellants arguments are more limiting than that of the claims. The appellant fails to specifically define the exact location of the "access opening". The applicant argues that the access opening has a "free edge" which is broadly recited in independent claims 10. This "limitation", which the applicant is relying on, is not even contained in claim 27. All of the appellant's limitations are mapped out in detail above.

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With respect to the 35 U.S.C. 103(a) rejection, substituting one window drive device for another is common in the automobile industry and no particular new or inventive features are directed towards the window drive device per se.

(11) Appendix

Board decision on 9/23/2004.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jerry Redman


Jerry Redman
Primary Examiner

Conferees:

Greg Strimbu



Meredith Petravick



The opinion in support of the decision being entered today was not written
for publication and is not binding precedent of the Board.

Paper No. 27

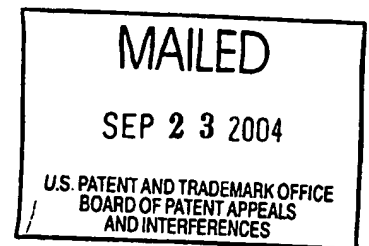
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KLAUS-PETER MAASS, UWE BERGMANN,
ARND G. HERWIG, STEFAN JUTZI,
PATRICE CARDINE, RAINER GRIMM,
KLAUS-DIETER STRAUSS, DANIEL DREWNIOK,
HARALD KOLLNER, GEORG WURM,
PATRICK HOF, SIMON BLAIR DOBSON,
KENNETH W. SCHANG and GREGORY KEYES

Appeal No. 2004-1636
Application No. 09/672,393

ON BRIEF



Before COHEN, MCQUADE and BAHR, Administrative Patent Judges.
BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 10-24,
which are all of the claims pending in this application.

We REVERSE AND REMAND.

BACKGROUND

The appellants' invention relates to a motor vehicle door having an interior sheet metal and an exterior sheeting, surrounding an interior space of the door, and having an opening 18 in the interior sheet metal and having a carrier module to close the opening, the module carrying at least one functional part of the vehicle door, such as a hinge part, lock part or window lift part (specification, page 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The examiner relied upon the following prior art references in rejecting the appealed claims:

Szerdahelyi et al. (Szerdahelyi)	6,067,882	Jun. 20, 2000
	(35 U.S.C. § 102(e) date Jun. 12, 1997)	
Carlo et al. (Carlo)	6,233,875	May 22, 2001
		(filed Apr. 8, 1998)

The following rejections are before us for review.

Claims 10-13 and 23 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Szerdahelyi.

Claims 14-22 and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Szerdahelyi in view of Carlo.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the final rejection and answer (Paper Nos. 13 and 25) for the examiner's complete reasoning in

support of the rejections and to the brief and reply brief (Paper Nos. 20 and 22) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Szerdahelyi discloses a motor vehicle door comprising an inner door panel 1b, having an opening 10 therein, an outer door panel 1a, and a module support 3, on which a window lift mechanism 31 is mounted, to close the opening 10. The upper area of the module support 3 is provided with two assembly openings 3a, 3b through which the connection is made during assembly between the lift rail 31a and the fixing elements 20 of the window pane 2 (column 4, lines 10-13). The assembly openings are closed by functional units, such as manual operating means 5 for the door lock, a side airbag 6, an electric drive unit or a structural group for sending drive energy or signals (column 6, lines 20-23).

In reading appellants' claims on the structure of Szerdahelyi, the examiner states the following on page 2 of the final rejection:

Szerdahelyi et al. disclose an interior sheet metal (1b), exterior sheeting, a hollow space (1a),^[1] an opening (10), a carrier module (figure 1b),^[2] and access openings (3a and 3b) "sized large enough to allow entry of the carrier module."

As pointed out by appellants on page 4 of their brief, the openings 3a, 3b which the examiner contends correspond to the "access opening" in appellants' claims are part of the module support 3 (the structure which closes the opening 10) and are smaller than the module support 3. Thus, the examiner's position that these openings are "sized large enough to allow entry of said carrier module into said interior space of said door" is unsound. We, like the examiner (final rejection, page 3), recognize that appellants' claims do not require that the access opening be sized to allow entry of the entire carrier module into the interior space. Nevertheless, openings in the module support of the carrier module itself cannot reasonably be considered to allow entry of the carrier module into the interior space. It follows that we cannot sustain the examiner's rejection of claims 10-13 and 23 as being anticipated by Szerdahelyi, which is grounded on this position.

While the modification proposed by the examiner to substitute the window operating mechanism of Szerdahelyi with that of Carlo seems reasonable to us, this still

¹ Szerdahelyi's reference "1a" actually denotes the outer door panel, with the hollow interior space being that between the inner door panel 1b and the outer door panel 1a.

² We presume that the examiner is reading the "carrier module" of appellants' claims on all of the structure illustrated in Figure 1b.

would not overcome the shortcoming of Szerdahelyi noted above. We thus also cannot sustain the examiner's rejection of claims 14-22 and 24 as being unpatentable over Szerdahelyi in view of Carlo.

REMAND TO THE EXAMINER

This application is remanded to the examiner pursuant to our authority under 37 CFR § 41.50(a)(1) 1.196(a) to consider the following:

1. The examiner should consider whether the limitation in claim 13 that "said closing plate includes said opening of said interior sheet metal and is closed by said carrier module" is inconsistent with the limitation in claim 12, from which claim 13 depends, that "said access opening to said interior space of said door is provided in said interior sheet metal and is closed by a closing plate" so as to render claim 13 indefinite within the meaning of 35 U.S.C. § 112, second paragraph. In other words, if the closing plate closes an access opening in the interior sheet metal, as recited in claim 12, can the closing plate reasonably be considered to be part of the interior sheet metal, so that the closing plate includes the opening in the interior sheet metal?
2. Assuming the examiner determines that the closing plate referred to in claims 12 and 13 is part of the interior sheet metal, the examiner should consider whether the opening in said interior sheet metal, a carrier module, a base plate and an access opening recited in claim 10 read on Szerdahelyi's assembly opening 3a or 3b (the opening), a functional unit, such as the manual operating means 5 for the door lock or a

side airbag (the carrier module), the bearing shell 50 of the manual operating means or the bearing shell 60 of the side airbag (the base plate of the carrier module) and the opening 10 (the access opening), respectively, so as to anticipate claims 10-13.

3. If the examiner determines that the closing plate of claims 12 and 13 is not part of the interior sheet metal, the examiner should consider whether the construction of the exterior sheeting and interior sheet metal, with the large access opening 22 formed at the free edge of the essentially pot-shaped or tub-shaped interior sheet metal, illustrated in appellants' Figure 1 is a conventional construction, in light of other prior art of which the examiner may be aware. If this is a conventional construction, the examiner should then consider whether such a construction would have been obvious for use in Szerdahelyi's door such that the opening in said interior sheet metal and the access opening in appellants' claim 10 read on the opening 10 in the inner door panel 1b and the large access opening formed at the free edge of the essentially pot-shaped or tub-shaped interior sheet metal, respectively, so as to render at least claims 10 and 11 unpatentable.

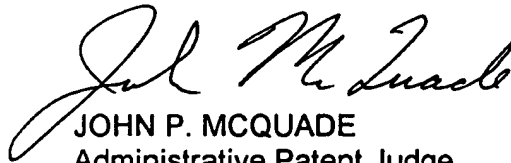
CONCLUSION

To summarize, the decision of the examiner to reject claims 10-13 and 23 under 35 U.S.C. § 102 and claims 14-22 and 24 under 35 U.S.C. § 103 is reversed and the application is remanded to the examiner for consideration of the issues raised above.

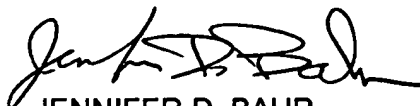
REVERSED AND REMANDED



IRWIN CHARLES COHEN
Administrative Patent Judge



JOHN P. MCQUADE
Administrative Patent Judge



JENNIFER D. BAHR
Administrative Patent Judge

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Appeal No. 2004-1636
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